

FEDERAL CO-CHAIRMAN'S J-1 VISA WAIVER POLICY

The Appalachian Regional Commission (ARC) is committed to assisting all residents of Appalachia to have access to quality, affordable health care. Accordingly, the Federal Co-Chairman (FCC) of the ARC is prepared to consider recommending a waiver of the foreign residence requirement on behalf of physicians holding J-1 Visas under certain conditions. The FCC's policy is totally discretionary and voluntary and may be modified or terminated at any time without notice. In all instances the FCC reserves the right at the FCC's discretion to recommend or decline to recommend any request for a waiver.

These ARC guidelines are the minimum requirements, which must be complied with by sponsors and applicants, but each state may impose additional requirements as it deems necessary to support its physician recruitment program.

1. Physician requests must be sponsored by a State within the Appalachian Region and will be considered by the FCC only upon written recommendation of the Governor of the sponsoring State.
2. The physician must agree to provide primary medical care for at least forty (40) hours a week at a site in a Health Professions Shortage Area (HPSA), as designated by the United States Public Health Service, within the legislatively defined ARC service area for a minimum of three years or longer, as a specific State policy may require. Travel or on-call time may not be included in the 40 hours required by this paragraph. However, in appropriate cases the State may make exceptions to allow travel or on-call for obstetricians.
3. The sponsor must demonstrate that it has made a reasonable good faith effort to recruit a U.S. doctor for the job opportunity in the same salary range without success during the six months immediately preceding the request for waiver. The sponsor shall demonstrate, with such supporting documentation as the Federal Co-Chairman may require, that it has undertaken such recruitment through a reasonable number of appropriate sources including but not limited to advertisements in newspapers and medical journals of national and statewide circulation most likely to bring responses from able, willing, qualified, and available U.S. doctors and job opportunity notices placed in appropriate medical schools including all medical schools in the state in which the hospital or clinic is located.
4. The employment contract between the physician and the sponsor may not contain a restrictive covenant or non-compete clause, which prevents or discourages the physician from continuing to practice in any HPSA after the period of obligation under this policy, has expired.
5. The physician, prior to employment, must be licensed by the State where he or she will practice and must have completed a residency in one of the following specialties: family practice, general pediatrics, obstetrics, general internal medicine or psychiatry.

6. The physician must not have been "out of status" (as defined by the Immigration and Naturalization Service of the United States Department of Justice) for more than 180 days since receiving a visa under 8 USC 1182 (j) of the Immigration and Nationality Act, as amended. The physician shall provide the FCC all copies of his or her Certificates of Eligibility for Exchange Visitor (J-1) Status, forms IAP-66 and every other document needed to verify status.
7. The facility or practice sponsoring the physician must agree to provide health services to individuals without discriminating against them because (a) they are unable to pay for those services or (b) payment for those health services will be made under Medicare and Medicaid. The sponsor may charge no more than the usual and customary rate prevailing in the HPSA in which services are provided. In addition, charges must be discounted on a sliding fee scale for persons at or below 200 percent of poverty. Persons with third party insurance may be charged the full fee for service. A notice must be posted in a conspicuous location in the patient waiting area at the practice site notifying patients of the charges for service as required in this paragraph. Such notice must contain at least the information set forth in the sample notice, which follows this policy statement. **Sponsors seeking a placement in a special population HPSA must demonstrate their recent record of serving Medicare, Medicaid and medically indigent patients as well as their continuing intentions to serve such individuals.**
8. The physician must sign and have notarized the Federal Co-Chairman's "J-1 Visa Policy Affidavit and Agreement" prior to consideration by the Federal Co-Chairman of the request and must comply with the terms and conditions set forth in that document.
9. All requests approved initially by the FCC and approved subsequently by the Immigration and Naturalization Service of the United States Department of Justice will be subject to review by ARC's Inspector General for compliance with this policy statement and other applicable laws. A sponsor's failure to comply in good faith with this waiver policy will be considered in the evaluation of other applications involving the same sponsor.

Sponsoring Employer Signature

Date

J-1 Applicant Signature

Date

Revised by ARC February 2001